

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

**KACIE NICKEL**

**APPELLANT,**

**v.  
STEPHENS COLLEGE, ET AL.**

**RESPONDENTS.**

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DOCKET NUMBER WD77898

DATE: September 15, 2015

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Appeal From:

Boone County Circuit Court  
The Honorable Kevin M.J. Crane, Judge

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Appellate Judges:

Division Four: Alok Ahuja, Chief Judge, Presiding, Gary D. Witt, Judge and John M. Torrence,  
Special Judge

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Attorneys:

Danieal H. Miller, Columbia, MO, for appellant.

Ian Paul Cooper and Katherine L. Nash, St. Louis, MO, for respondents.

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**MISSOURI APPELLATE COURT OPINION SUMMARY**

**MISSOURI COURT OF APPEALS  
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**KACIE NICKEL,**

**APPELLANT,**

**v.**

**STEPHENS COLLEGE, ET AL.,**

**RESPONDENTS.**

No. WD77898

Boone County

Before Division Four: Alok Ahuja, Chief Judge, Presiding, Gary D. Witt, Judge and John M. Torrence, Special Judge

Appellant Kacie Nickel ("Nickel") brought suit against Respondent Stephens College ("Stephens") and three of its employees, Deborah Duren, Erin Zevely, and Tony Coleman (collectively with Stephens, the "Respondents"), arising out of the mandatory medical withdrawal of Nickel by Stephens, following a suicide attempt by Nickel. Stephens issued the medical withdrawal without consulting Nickel and acting in what Stephens considered to be Nickel's best interests. Nickel filed suit against Stephens raising seven counts: Breach of Contract (Count I); Tortious Interference with a Contract (solely against the individual respondents - Count II); Negligent Infliction of Emotional Distress (Count III); Prima Facie Tort (Count IV); Negligent Supervision and Training (solely against Stephens - Count V); Negligence Per Se (solely against Stephens - Count VI); and Negligence (Count VII). Following discovery, the trial court granted the Respondents' Motion for Summary Judgment on all counts. Nickel now appeals.

**AFFIRMED**

Division Four holds:

(1) In Point One, Nickel argues the trial court erred in granting summary judgment in favor of Stephens on her breach of contract (Count I) and tortious interference with contract (Count II) claims.

Regarding Nickel's breach of contract claim, summary judgment was appropriate as Nickel failed to establish which rights or obligations under the alleged contract Stephens had breached. Regarding her tortious interference with contract claim, summary judgment was appropriate, as all of the respondents were either a party or agents of the party to the alleged contract.

(2) In Point Two, Nickel argues the trial court erred in granting summary judgment in favor of Stephens on her negligence (Count VII), negligent infliction of emotional distress (Count III), negligent supervision and training (Count V), and prima facie tort (Count IV) because Stephens owed Nickel a duty not to expel her because of mental health issues.

Regarding her negligence and negligent infliction of emotional distress claims, Nickel has failed to establish any duty of care that Stephens owed Nickel regarding how the college must address student enrollment, mental health issues, or any other potentially applicable duty.

Regarding Nickel's negligent supervision and prima facie tort claims, Nickel again has failed to identify a duty owed by Stephens. In addition, regarding her negligent supervision claim, summary judgment was appropriate because it was undisputed that at all times the individual respondents were acting within the course and scope of their employment. Furthermore, regarding the prima facie tort claim, summary judgment was proper because it was uncontroverted that the individual respondents were concerned about Nickel's well-being and believed they were acting in her best interests. Therefore, Nickel was unable to establish the material fact that Respondents intended to injure Nickel.

(3) In Point Three, Nickel argues the trial court erred in granting summary judgment in favor of Stephens on her negligence per se claims (Count VI). Due to Nickel's failure to comply with Rule 84.04(d) and (e), the Court has no choice but to decline review of this Point.

Opinion by Gary D. Witt, Judge

September 15, 2015

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